

Montana State Library Commission Policy

Employee Record Keeping Policy to Supplement State Policy 3-0110

This policy is adopted in compliance with the Record keeping rules, found at ARM 2.21.6605 (also found in the State Personnel Policy 3-0110, and pursuant to records management procedures found in the Montana Operations Manual, Volume I, Chapter 800).

It is the policy of the Montana State Library Commission to collect and maintain employee personnel records while protecting an employee's right of privacy pursuant to Article II, Section 10 of the Constitution of the State of Montana.

Employee personnel records are confidential and access is restricted to those with a job-related purpose of viewing or using the records.

DEFINITIONS

- 1) "Access" means permission to view and use records.
- 2) "Confidential records" means records concerning an employee to which there is restricted access.
- 3) "Document" means an object upon which information is written, transcribed or recorded.
- 4) "Employee personnel record" means information relating to an individual's employment with the State of Montana or a department of the state and is appropriate for preservation as evidence of employment policies, practices and decisions. An employee record may be a paper document and/or it may be information maintained in the state's electronic Human Resource system. Other programs including Public Employees Retirement System and worker's compensation or unemployment insurance develop records relating to an employee which are not an employee personnel record as defined in this policy.
- 5) "Records" means a body of recorded information. This information may be manually or electronically recorded and maintained.

EMPLOYEE PERSONNEL RECORDS

The Montana State Library maintains the following employee personnel records:

Payroll and Benefits - copies of payroll status forms affecting employee's pay and/or status; W-4 forms; employee leave record; sick leave fund vouchers; time and attendance reports; authorization to deduct money from paycheck, such as health insurance premiums, credit union, savings bond and/or deferred compensation deductions, charitable contributions; copies of automatic bank deposit authorizations; copy of designation of person authorized to receive decedent's warrants; enrollment forms in health insurance plans, longevity computation, certification form and documentation of previous employment which affects employee benefits.

Personal Employee Records – Performance evaluations and employee rebuttals; disciplinary documents; documents relating to personal problems requiring employer intervention or affecting an employee's ability to perform job-related duties; state application and/or resume of employee, including any requests for preference; copies of professional licenses and certifications; individual training records; hiring documents such as offer letter, acceptance letters, EEO status, and I-9 form; transfer, reassignment, promotion, demotion, and employee exchange or loan records; documents pertaining to selection for training assignment or apprenticeship; records pertaining to awards, commendations, or other methods of recognizing achievement, performance or longevity; documents of separation such as letter of resignation or copy of any agency termination form.

INVESTIGATIONS

Employee personnel records, as defined in this policy and the state employee record keeping policy, do not include documents developed during the course of an investigation. Access to such documents shall be

determined on a case-by-case basis. Balancing the constitutional guarantees of the Right to Privacy, Art. II, Sec. 10, and The Public's Right to Know, Art. II, Sec. 9.

MEDICAL RECORDS

The Americans with Disabilities Act of 1990 (ADA) requires that information collected with respect to medical examinations or inquiries must be collected and maintained on separate forms in separate files. These records must be treated as confidential medical records and access is limited to:

- 1) supervisors and managers for purposes of identifying necessary restrictions on the employee's work or duties or identifying necessary accommodations;
- 2) agency personnel/EEO officer;
- 3) legal counsel contracted by the agency;
- 4) first aid and safety personnel, when appropriate, if the disability might require emergency treatment; or
- 5) government officials when investigating compliance with ADA.

ACCESS TO EMPLOYEE PERSONNEL RECORDS

All employee personnel records are confidential and access is restricted, except an employee's position title, date and duration of employment and salary, which are public information and must be released on request. It will be determined on a case-by-case basis whether or not the request must be in writing.

The Montana State Library permits access to employee personnel records for job-related purposes to the following agency employees or representatives:

- 1) the employee
- 2) the employee's immediate supervisor
- 3) other persons in direct line of supervision
- 4) State Librarian
- 5) the personnel/EEO officer
- 6) legal counsel contracted by the agency
- 7) accounting/payroll staff (for payroll and benefits records only)

Others with access to employee personnel records as provided in the state Employee Record Keeping policy are:

- 1) the office of the Legislative Auditor for purposes of auditing state agencies;
- 2) the Human Rights Division, Department of Labor and Industry, for purposes directly related to complaints of discrimination;
- 3) the professional staff of the State Personnel Division, Department of Administration, for purposes of gathering summary data on personnel programs or systems or to provide technical assistance at the request of an agency.

The Montana State Library may authorize others to have access to employee personnel records for purposes of conducting an investigation into areas including, but not limited to, grievance investigations, discrimination charges, review of department personnel practices, violation of department rules, policies and procedures, or matters which may result in civil or criminal prosecution.

Any other person or employee who is not listed in this section may obtain access to employee personnel records only with the employee's informed and written permission or with a valid legal order. The employee will be informed when a valid legal order has been received allowing access to his/her personnel records.

LOCATION AND SECURITY

Employee personnel records are maintained in the following locations:

- 1) State Library accounting office
- 2) State Library archives
- 3) The State's electronic Human Resources System

File cabinets or storage systems containing both active and inactive records will be kept locked during regular business hours at all possible times and will be kept locked after regular business hours. Security of automated records will comply with the security and privacy policy. An employee may view his or her personnel records during regular business hours by contacting:

- 1) the agency personnel/EEO officer
- 2) his/her supervisor
- 3) the State Librarian

A viewing area will be arranged where the employee may examine his/her file. No materials are to be removed from the files. The employee may request copies of specific records, which will be provided at no cost. An employee may request to have documents added to his/her file by contacting his/her immediate supervisor or the State Librarian. By mutual agreement between the employee and the supervisor, materials may be excised from the employee's file.

Other persons with authorized access to agency personnel records may view records by contacting:

- 1) the agency personnel/EEO officer
- 2) the immediate supervisor of the employee whose records are being viewed
- 3) the State Librarian

Those persons may check out or otherwise remove employee personnel records and/or may make copies of those records only with the express approval of:

- 1) the agency personnel officer;
- 2) the State Librarian; or
- 3) agency legal counsel;

and by signing for the records with the personnel/EEO officer or the State Librarian. Authorized employees/representatives who make copies of the employee personnel records may do so at no charge and must arrange for the security of those copies.